

November 14, 2018

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Written Ex Parte Communication, MB Docket Nos. 17-264, 17-105, 05-6

Dear Ms. Dortch:

On November 13, 2018, I represented the Public Notice Resource Center (PNRC) in a meeting with Raelynn Remy and Holly Saurer of FCC's Media Bureau. Tonda Rush, representing the National Newspaper Association, attended the meeting as well.

At the meeting, PNRC reiterated its argument in favor of retaining Section 73.3580 of the Commission's rules, which require broadcast licensees to provide public notice of the filing of various license applications.¹ More specifically, the rule requiring licensees to publish notices in local newspapers is the only present mechanism preventing them from conducting the entire process largely outside of public view and excluding local citizens from participating in matters that result on the assignment of public airwaves to private companies.

Contrary to language used in the NPRM², this issue isn't about "newspapers versus the internet". The proper framing is "newspapers and newspaper websites versus other websites that are not defined in the NPRM". That's because the great majority of newspapers now post notices on their websites in addition to their newsprint editions. In fact, thirteen states have passed laws requiring them to do so.³ Moreover, many papers also publish notices on statewide public notice websites hosted by their state press associations. At present, such websites are operating in over 40 states.⁴

Therefore, eliminating the newspaper notice requirements in the current rules will result in *less* internet distribution of these notices, not more. If providing increased notice to the public via the internet is one of the goals of the Commission's "media modernization" efforts, eliminating newspaper notice is clearly not the way to do it.

There is an even more important consideration at stake: Intrinsic differences between the print and online experiences make newspapers a superior medium to the internet as a source of public notice. When we read a newspaper, the tactile, contemplative experience and the size of its pages encourage us to find information we didn't expect to see.⁵ That serendipitous process guarantees that public notices in local newspapers will be seen by many people in the community who didn't pick up the paper intending to read them.⁶

We behave differently on the internet. We tend to be goal-oriented, visiting websites for a particular reason. Although digital interfaces at their best encourage serendipity, it tends to be unidirectional⁷ and is often focused on the sensational. Public notices get lost and are easily hidden in that environment. Moreover, the massive migration from desktop computers to small-screen mobile devices has exacerbated the problem.

Examples of the continuing power of newspaper notice to inform the public are legion. At our meeting, I discussed a couple of recent examples and promised to follow by providing brief descriptions and sources. Here are several examples we discovered over a recent 30-day period:

- In Randolph County, Ga., a proposal to close seven of the county's nine polling places was discovered by an activist reading the notices in *The Southern Tribune*, a 1,200-circulation weekly based in the county seat of Cuthbert.⁸
- Wapallo County, Iowa, saved "tens of thousands" of dollars per year after a notice in the 6,800-circulation daily *Ottumwa Courier* allowed a local pharmacist to determine that CVS Caremark was massively overcharging the county for medication it was selling to the local jail system.⁹
- Ford County, Ill., saved significant money on a generator for its local jail after receiving several bids solicited via a notice it published in the 2,200-circulation weekly *Ford Country Reporter*. The generator was also larger than the one initially rejected by the county commission after it had been noticed exclusively on the county website.¹⁰
- In northwest New Mexico, residents learned from notices published in the *Farmington Daily Times* and the *Rio Grande Sun* that a privately held oil company had petitioned a state commission to change the drilling rules governing a local gas pool.¹¹
- In Sandwich, Mass., the new fire chief on Cape Cod was inundated with offers for a broken-down used fire truck after he published a bid notice in the weekly *Sandwich Enterprise*.¹²

These are merely the examples we found during this period that were *reported*. Notices published in newspapers drive public awareness of vital governmental and private activity on a daily basis.

There are fewer examples of the inadequacy of public notice provided exclusively via the internet simply because newspapers remain the primary means of distributing notice in all 50 states. However, recent controversies in Michigan¹³ and Arkansas¹⁴ highlight the dangers of limiting public notice to government websites.

PNRC also criticized the disingenuous argument cited by the National Association of Broadcasters (NAB) in its ex parte communications to bolster its argument that the notices currently required by the Commission "are superfluous and simply do not result in public comment." As we stated at the meeting, the current rules do not require the notices published in newspapers to inform citizens about their right to file comments in these proceedings, nor do they require the publication of instructions about how or where to file such comments. The only rule change we might suggest is to correct this inexplicable omission and to bring the newspaper notice requirements in sync with the current requirements for on-air notices, which stipulate the precise language broadcast representatives must read verbatim.

PNRC appreciates the Commission's continuing efforts to insure the public is informed about the broadcast licenses being considered in their communities, and for the Commission's willingness to meet with us to discuss these issues.

Respectfully submitted,



Richard Karpel
Executive Director
Public Notice Resource Center

cc: Tonda Rush, Raelynn Remy, Holly Saurer

¹ See Comments of Public Notice Resource Center, MB Docket Nos. 17-264, 17-105, 05-6

² Notice of Proposed Rulemaking, FCC 17-138, MB Docket Nos. 17-264, *et al.* (Oct. 24, 2017)

³ State statutes requiring web posting of public notices, PNRC website, <http://www.pnrc.net/subscribers/statutes-comparative-by-state/statutes-requiring-web-posting/>

⁴ Hyperlinked list of 42 statewide public notice websites, PNRC website, <http://www.pnrc.net/find-a-notice/state-press-associations/>

⁵ Jack Shafer, "Why Print News Still Rules," *Politico Magazine*, Sept. 10, 2016, <https://www.politico.com/magazine/story/2016/09/newspapers-print-news-online-journalism-214238>

⁶ See, e.g., Mary Duan, "A 99-year-old Carmel woman fights to keep her home from Wells Fargo," *Monterey County Weekly*, Nov. 9, 2017, http://www.montereycountyweekly.com/opinion/local_spin/a-year-old-carmel-woman-fights-to-keep-her/article_b087ef96-c4e3-11e7-a43c-4fcb78f80f09.html

⁷ See Shafer above

⁸ "How newspaper notice is supposed to work," Public Notice Resource Center, Aug. 29, 2018, <https://www.pnrc.net/2018/08/29/how-newspaper-notice-is-supposed-to-work/>

⁹ "The Secret Drug Pricing System Middlemen Use to Rake in Millions," *Bloomberg News*, Sept. 11, 2018, <https://www.bloomberg.com/graphics/2018-drug-spread-pricing/>, and "Jail benefits from drug deal," *Ottumwa Courier*, Sept. 13, 2018, http://www.ottumwacourier.com/news/jail-benefits-from-drug-deal/article_944d1b5a-b6d5-11e8-98bd-37fedbba308d.html

¹⁰ "Commissioner wants to ensure competitiveness, legality in bidding process," *Ford County Reporter*, Sept. 28, 2018, <http://www.paxtonrecord.net/news/2018-09-28/commissioner-wants-ensure-competitiveness-legality-bidding-process.html>

¹¹ "Drilling company pushes for more wells in NW New Mexico," *Santa Fe New Mexican*, Sept. 10, 2018, http://www.santafenewmexican.com/news/local_news/drilling-company-pushes-for-more-wells-in-nw-new-mexico/article_966a2783-5bd4-5d87-a1e8-31392db11d7b.html

¹² "Fire Truck Sale In Sandwich Creates Buzz," *Sandwich Enterprise*, Aug. 29, 2018, https://www.capenews.net/sandwich/news/fire-truck-sale-in-sandwich-creates-buzz/article_8d48ca63-ffa-5d83-97cf-6ed263a3d3f8.html

¹³ "Public wasn't adequately notified of Nestle water request, says DEQ director," MLive.com, Dec. 5, 2016, https://www.mlive.com/news/index.ssf/2016/12/deq_nestle_grether_public_comm.html

¹⁴ David Ramsey, "Hog farm near the Buffalo River stirs controversy," *Arkansas Times*, Aug. 15, 2013, <https://www.arktimes.com/arkansas/hog-farm-near-buffalo-river-raises-concerns-for-watershed-and-community/Content?oid=3013811>